

## PROCUREMENT - CONSTRUCTION SERVICES

An LGA advertises the contract for proposed construction services and enters into a contract with the lowest bidder. Federal, State, and Local policy and procedures may all apply when an LGA is letting a contract with federal funds.

**POLICY:** Construction contracts must be awarded to the **lowest responsible, responsive bidder** after advertisement and solicitation of competitive bids. NCDOT must concur in the award of a construction contract by the LGA.

### GUIDANCE

All procurement is governed by The Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (49 CFR 18), however transportation projects within the highway right of way must be procured in accordance with Federal Highway Administration regulations at 23 CFR 635.

NCDOT's own procurement process for construction contracts meets FHWA requirements for competitive bidding; therefore, projects within the public highway right of way shall comply with NCDOT's procedures for procurement. Modifications, however, may be made by the LGA in order to comply with state general statutes for procurement of construction projects at NCGS 143 Article 8 – Public Contracts.

#### **Projects WITHIN the Highway Right of Way:**

Follow NCDOT Specifications – Division 1 for advertising and letting a construction contract, with modifications to ensure compliance with NCGS 143-129 or 143-131.

#### **Projects wholly OUTSIDE the Highway Right of Way:**

Follow LOCAL Procurement Standards for advertising and letting a construction contract.

### **PRE-QUALIFICATION (APPLIES TO TYPE 1 PROJECTS ONLY)**

All contractors bidding must be pre-qualified, in the approved work codes, by the NC Department of Transportation prior to bid opening. To find contractors pre-qualified by NCDOT, go to

<https://apps.dot.state.nc.us/vendor/directory/default.aspx>.

Contractors designated as “pre-qualified bidders” may submit bids of any amount on a project. Contractors designated as “pre-qualified subcontractors” may bid as a prime, but may only submit bids up to \$1.2 million dollars. If a “pre-qualified subcontractor” submits a bid greater than \$1.2 million, his bid will

be considered irregular and shall be rejected. All subcontractors shall be pre-qualified by NCDOT before beginning work on the project.

<b>PROCEDURE</b>
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**INSIDE Highway ROW:**

Follow NCDOT Specifications – Division 1 for advertising and letting a construction contract, with modifications to ensure compliance with NCGS 143-129 or 143-131.

*IMPORTANT DIFFERENCES BETWEEN STATE LAW AND NCDOT PROCEDURE:*

NCDOT:

- BIDS MUST BE ADVERTISED FOR A MINIMUM OF 3 WEEKS
- NO NEGOTIATION IS ALLOWED WITH LOW BIDDER

STATE LAW:

- BIDS ADVERTISED AT LEAST 7 DAYS
- NEGOTIATIONS ALLOWED WITH LOW BIDDER

**OUTSIDE Highway ROW:**

Follow LOCAL Procurement Standards for advertising and letting a construction contract (i.e. NCGS 143-129 or 143-131).

AFTER RECEIVING BIDS, LGA shall review for compliance with Disadvantaged Business Enterprise goals, and submit the following to NCDOT:

- Sponsor letter requesting concurrence (original, on municipal letterhead – see template)
- Signed Copy of City/Town/County resolution to accept low bid (see template)
- Itemized Bid tabulation sheets (comparing eng. est. to responsive bids and percentages over/under)
- Copy of the Low Bidder's itemized estimate from Bid Proposal
- Copy of Non-collusion affidavit from Bid Proposal (signed and sealed)
- Copy of DBE Subcontractors Listing from Bid Proposal
- Good Faith Effort Documentation (if DBE goal not met)
- Letters of Intent to Subcontract (if applicable)

NCDOT will review the documents and reply in writing, giving **NOTICE TO PROCEED**.

**EXCEPTIONS:**

In a few cases, a LGA may be approved to undertake construction through [Force Account](#), using their own local government forces.

**IMPORTANT:** [DISADVANTAGED BUSINESS ENTERPRISES](#) requirements apply for all [PROCUREMENT](#) activities, see separate section for guidance.

**RESOURCES:**

- [23 CFR 635 Subpart A](#) – Contract procedures
- [NCDOT Standard Specifications \(2012\) – Division 1](#)
- NCGS 143 Article 8 – Public Contracts